

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

KURT Z. STACK o/b/o JOHN DOE,	:	
Plaintiff,	:	
	:	
v.	:	C.A. No. 20-350WES
	:	
THE TOWN OF LINCOLN HOUSING	:	
AUTHORITY, et al.,	:	
Defendants.	:	

**ORDER WITHDRAWING REPORT AND RECOMMENDATION
AND EXTENDING TIME TO SERVE SUMMONSES AND COMPLAINT**

The Plaintiff in this case, Kurt Z. Stack, appears to have been the victim of the overwhelming challenges faced by the United States Postal Service as a result of the COVID pandemic and other factors. Believing that he had failed both to complete summonses for service of his complaint and to comply with the Court's show cause order, I recommended that his case be dismissed without prejudice. Hours after this Report and Recommendation (ECF No. 7) issued, I became aware that his response to the show cause order had just been received by the Clerk's Office. It had been timely mailed (well before the show cause deadline) but took two weeks to be delivered. Although the Postal Service delivered the physical copy to the Clerk's Office on December 16, 2020, due to the pandemic, it was not fully processed (and I was therefore unaware of it) until after issuance of the Report and Recommendation.

The content of the show cause response was brought to my attention late yesterday. As a result, I learned that Plaintiff had timely mailed (by certified mail) the completed summonses shortly after he received a September 25, 2020, email from the Clerk's Office offering to assist him. However, as confirmed by the Clerk's Office (which checked the tracking number in the show cause response), this mailing was never delivered to the Clerk's Office, but remains lost.

Based on these facts, I find good cause for the delay in serving the summonses and complaint and grant Plaintiff thirty days from today to complete service pursuant to Fed. R. Civ. P. 4(m). Further, while he has not yet filled in the USM-285 forms required by the United States Marshals Service to implement service (or the separate summons form for the Lincoln Housing Authority), in light of the history of his efforts to get the complaint served, I direct the Clerk's Office to fill in the Lincoln Housing Authority summons and the USM-285 forms for him and to transmit the summonses, USM-285 forms and the complaint to the United States Marshals Service so that they may be served. To avoid any unfairness arising from these events, Defendants may raise any substantive prejudice caused by the delay in service as a defense, which the Court will consider.

Based on the foregoing, the Report and Recommendation issued on December 17, 2020, is hereby withdrawn.

So ordered.

ENTER:

/s/ Patricia A. Sullivan
PATRICIA A. SULLIVAN
United States Magistrate Judge
December 18, 2020